REMARKS/ARGUMENTS

In response to the Office Action mailed May 20, 2008, Applicants propose to amend their application and request reconsideration in view of the proposed amendment and the following remarks.

It is proposed to amend four claims with respect to matters of form, particularly in response to the claim objections to claims 7 and 23. Specifically, it is proposed to remove from each of the independent claims, the words "for containing a medicinal product" because the language is unnecessary and only describes an intended use of the reservoir. Claims 7 and 23 are corrected in response to the claim objection. The two external pads referred to in those claims correspond, in the described embodiments of the invention, to the pads 14. Those pads clearly close the first chamber, not the second chamber, when the lid of the claimed device is closed. It is believed that the Examiner perceived the error in these two claims, leading to the claim objection that is corrected here. These amendments, directed to informalities, cannot affect the substance of the claimed subject matter and, therefore, the amendment should be entered.

Most of the pending claims, and all three pending independent claims, claims 1, 22, and 23, were rejected as obvious over Landuyt (U.S. Patent 6,387,076) in view of Bierman (U.S. Patent 7,153,291, hereinafter Bierman '291). This rejection is respectfully traversed.

The subject matter of the claimed invention and of Landuyt and Bierman '291 are the same. However, no matter how one attempts to modify Landuyt with Bierman '291, the claimed invention cannot be produced. The invention concerns a device for affixing a catheter to a patient. The catheter enters the body of the patient whereas the device holds the catheter in place and permits connection of various lines to the catheter for the infusion of medicinal products or other materials into the patient. The claimed invention actually encompasses at least part of the catheter structure. The

catheter includes a supporting base having wings that extend from opposite lateral faces of the supporting base, according to each of the three pending independent claims. The claimed device includes a lid that closes on a housing so that the catheter is within a volume defined by the housing and the lid, when the lid is closed. According to all three independent claims, the lid includes, on an internal face, two pads which penetrate into a part of the housing "and respectively bear on the wings," thereby "holding the supporting base of the catheter against the bottom wall of the second chamber" of the housing. At least this feature is not disclosed nor suggested in either of Landuyt or Bierman '291 and cannot be produced by any modification of Landuyt with Bierman '291.

As an initial matter, it is improper to attempt to modify Landuyt with Bierman '291. Landuyt describes an enclosure for a tube of a catheter. A tube 4 is, in Landuyt, placed within two V-shaped notches that are spaced from each other and then clamped in position by a plurality of "teeth" or "vanes" that project from the lid, transverse to the direction of the tube 4. It is apparent to even an unskilled person that those teeth 35, while possibly restraining the tube 4 by clamping the tube 4 against a floor including protrusions 15, tends to crush or close that tube 4. Thus, the structure of Landuyt does not even appear to be well suited for the function for which it is intended.

Bierman '291 describes a tube leading to a catheter that, like the tube or catheter structure of the claimed invention, includes a pair of wings 18 that extend laterally from a conical receptacle 14 that has a threaded rim 16 for connection of a tube feeding a product to be infused to the catheter.

In Bierman '291, the positioning of the fitting 12, which includes the wings 18 with through-holes 20, is mounted on a retainer 30 that includes two posts 28. The posts extend through the holes 20 of the wings. However, as apparent to anyone of reasonable skill, insertion of the posts 28 within the holes 20 would not be sufficient to hold the fitting 12 in place. Thus, the fitting is brought into contact with an adhesive member 24 that holds the fitting 12 against the retainer 30. The post and

hole arrangement prevents wiggling of the fitting 12 with respect to the retainer 30 and the adhesive prevents the lifting of the fitting 12 from the retainer 30.

Landuyt and Bierman '291 are entirely different in how the tube or fitting or catheter is held in place. In Landuyt, as already described, the tube 4 is held in place with a clamping, compressive force applied from two different sides of the tube. The teeth 35 apply pressure from one side of the tube and the floor with the protrusions 15 provides force against the other side of the tube 4.

By contrast with Landuyt, in Bierman '291, the fitting 12 is held in place by tension, not compression. The adhesive on the member 24 pulls the fitting 12 against the retainer 30, quite unlike and even contrary to the arrangement provided by Landuyt. Thus, because different techniques are employed to hold in place the tube of a catheter in Landuyt and Bierman '291, there can be no suggestion for modifying one of those devices with the other.

The fundamental advantage of Landuyt is entirely inconsistent with Bierman '291, further showing that the hypothetical modification of Landuyt with Bierman '291 is not reasonable. As described in column 4 of Landuyt, and even in its claim 1, an important feature of the catheter retainer of Landuyt is that it may be removed from the patient without disturbing the tube 4. This result is achievable because, upon opening the lid, the compressive force applied to the tube 4 is relieved. Since the tube 4 is not fastened in a permanent way to the Landuyt device, the device can be removed without disturbing the catheter. By contrast, in Bierman '291, the catheter is adhered to the retainer 30. Thus, it is impossible to disengage the device of Bierman '291, including the retainer 30, from elements of the catheter without disturbing the catheter. For that reason alone, one of skill in the art would not seek to modify Landuyt with parts of Bierman '291 that are contrary to the fundamental objective of Landuyt.

Even if there were some basis for modifying Landuyt with Bierman '291, the result could not be the invention as described by the pending independent claims. There is no teaching in those references that any compressive force should be applied

to the catheter wings. In making the rejection, the Examiner acknowledged that the tube 4 of Landuyt lacks any wings, like the wings described in each of the independent claims. For that feature of the invention, reliance was placed on Bierman '291. However, in the invention, unlike Bierman '291, pads on the lid of the claimed device respectively bear on those wings, when the lid is closed. Those pads apply a compressive force to the wings, thereby holding the catheter in place. No compressive force is applied to the wings 18 in Bierman '291. Moreover, there is no structure described in Landuyt that could apply a compressive force to the wings.

In order to apply a compressive force to the wings 18 of Bierman '291, one would have to remove the posts 28 from Bierman '291 or provide a structure accommodating those posts. Such a structure would have to be generally parallel to the catheter direction, i.e., the direction of the tube 10 extending outwardly from the conical receptacle 14 of Bierman '291. The teeth 35 of Landuyt cannot provide that structure. Those teeth are perpendicular to, not parallel to, the tube 4 in Landuyt. Rotating those teeth 90° would make Landuyt even more ineffective in achieving its goal of clamping the tube 4 than the arrangement shown in Landuyt. Such spaced apart teeth, extending parallel to the tube 4, might crush the tube preventing fluid flow or straddle the tube, allowing the tube to slide along its longitudinal axis.

Since these hypothetical modifications of Landuyt with Bierman '291, would make Landuyt useless for its intended purpose, the proposed modifications cannot establish obviousness, as explained in MPEP 2143.01 V.

Even if the teeth 35 of Landuyt were changed in direction by 90°, how could those teeth accommodate the conical receptacle 14 of the Bierman '291 catheter? Eliminating some of those teeth in favor of others is still a further unjustified hypothetical modification of Landuyt. Finally, how could wings be added to the simple lumen 4 of Landuyt? Clearly, the attempt to add a winged catheter to Landuyt has to be based upon knowledge of the invention since the substitution would not be operable in Landuyt.

There simply is no basis for the several modifications that would be required with respect to both Landuyt and Bierman '291 to produce the invention as defined by the three pending independent claims. *Prima facie* obviousness cannot be established from those two publications.

For all of the foregoing reasons, the rejection of claims 1, 2, 4, 5, 7-10, 14,15, 22, and 23 as obvious over Landuyt in view of Bierman '291 is legally and factually erroneous and should, upon reconsideration, be withdrawn.

Applicants note that claims 6, 11, and 12 were rejected as obvious based upon the purported modification of Landuyt with Bierman '291 and in view of tertiary references. However, it is apparent that the rejections of those claims are premised upon the rejection of claim 1, from which those claims ultimately depend. Because that fundamental rejection has been shown to be erroneous, further discussion with regard to the rejection of claims 6, 11, and 12 is neither required nor provided.

Reconsideration and allowance of all pending claims are earnestly solicited.

Respectfully submitted,

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Date: July 16, 2008
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